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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,975	03/01/2002	Yakov Kamen	007287.00037	9048
22907 7590 04/28/2010 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051				
EXAMINER				
PENG, FRED H				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/087,975

**Applicant(s)**

KAMEN ET AL.

**Examiner**

FRED PENG

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2010.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 10-13, 19-22 and 25-40 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4, 10-13, 19-22, 25-28, 30-33 and 35-40 is/are rejected.  
7) ☒ Claim(s) 29 and 34 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

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1. In view of the Appeal Brief filed on 01/21/2010, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

\*\*\*,

## **DETAILED ACTION**

### ***Status of Claims***

2. Claims 1-4, 10-13, 19-22 and 25-40 are pending in this application.

### ***Drawings***

3. The informal drawings are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

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Applicant is given a TWO MONTH time period to submit new drawings in compliance with 37 CFR 1.81. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a). Failure to timely submit replacement drawing sheets will result in ABANDONMENT of the application.

***Allowable Subject Matter***

4. Claims 29 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 10-13, 19-22 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) in view of Griesau et al (US 6,507,306).

Regarding Claims 1, 10 and 19, Saib discloses an apparatus (FIG.2) with corresponding method and computer-readable medium (FIG.2, -37) comprising:

a processor (FIG.2, -29) having a memory (37) coupled thereto, the memory having stored thereon executable instructions which, when executed by the processor, cause the processor to perform a method comprising:

receiving at a multimedia presentation device controller an indication of a depression of a channel selection button (FIG.3, 302);

receiving an indication of an ending of the depression of the channel selection button (304; decision making is based on indication of an ending);

evaluating a depression duration of the channel selection button (304; decision making is evaluating a depression duration); and

performing one of a plurality of functions associated with the channel selection button, wherein the function performed is based upon the depression duration (FIG.3, 306, 308, 310, 312; Para 6 lines 1-2; Para 32 lines 1-5; Para 28 lines 1-8).

Saib discloses a designated Jump button to perform the function based upon the depression duration but not a generic number button.

In an analogous art, Griesau discloses a key or a button in a universal remote controller can be programmed for more than a function in addition to its normal usage to simplify the operation of universal remote control unit and desirably reduce the number of push button presses (Col 5 lines 25-45).

Therefore, a person of ordinary skill in the art would have had good reason to pursue the known options of programming existing generic buttons such as numerical keys to provide extra functions without major modifications of the existing design to save time and cost. It would require no more than "ordinary skill and common sense" to program a numerical key as an option to provide an additional function as a need warrants it.

Regarding Claims 2, 11 and 20, Saib further discloses evaluating the depression duration comprises:

determining depression of button; periodically incrementing a counter during the depression duration; and evaluating the counter value, upon termination of the depression of a button (Para 28 lines 1-3; Para 31 lines 6-10; Para 28 lines 5-7; Para 28 lines 8-12; The CPU acting as a computer function is inherent to perform the counter functionality and evaluate the value).

Regarding Claims 3, 4, 12, 13, 21 and 22, Saib further discloses the plurality of functions affect a favorite channel list, wherein a plurality of channels favorites are positioned in the list

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non-sequentially (channel is randomly selected and is positioned non-sequentially), wherein the functions affecting the favorite channel list include one or more of accessing, updating, programming and last channel (Para 36 lines 7-10; Para 37 lines 1-3; Para 6 lines 5-13; Para 5 lines 2-6).

Regarding Claims 25, 26 and 27, Saib inherently discloses selection of channels based on the number keys from a remote control (press "3" button on the remote will select channel 3).

6. Claims 28, 33 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) in view of Shaffer et al (US 7,181,027).

Regarding Claims 28, 33 and 38, Saib discloses a device controller (FIG.2) with corresponding method and computer-readable medium (FIG.2, -37) comprising:

a processor (FIG.2, -29) having a memory (37) coupled thereto, the memory having stored thereon executable instructions which, when executed by the processor, cause the processor to perform a method comprising:

receiving an indication of a depression of a button on the device controller;

receiving an indication of an ending of the depression of the button;

evaluating a depression duration of the button and classifying the depression duration into two ranges, wherein a first depression duration range is associated with a first function on the device controller, a second depression duration range is associated with a second function on the device controller, and performing the function associated with the depression duration range of the button on the device controller (FIG.3; Para 6 lines 1-2; Para 32 lines 1-5; Para 28 lines 1-8).

Saib discloses a duration threshold to determine a first and second functions but is silent about a third depression duration range is associated with a third function on the device controller.

In an analogous art, Shaffer discloses a first time duration threshold to detect a user's speech and a second time duration threshold, the third duration range to detect the end of the speech (FIG.4; Col 8 lines 59-64).

Therefore, a person of ordinary skill in the art would have had good reason to pursue the known options of further specifying additional duration range for more functions based on design needs. It would require no more than "ordinary skill and common sense" to add an additional range if the circumstance for more functions arises.

Regarding Claims 39 and 40, Shaffer discloses specifying multiple duration ranges for different functions but is not explicit about the fourth range. However, a person of ordinary skill in the art would have had good reason to pursue the known options of further specifying additional duration range for more functions based on design needs. It would require no more than "ordinary skill and common sense" to add an additional range if the circumstance arises for more functions.

7. Claims 30 and 35 rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) and Shaffer(US 7,181,027) as applied to claims 28 and 33 above, and further in view of Griesau et al (US 6,507,306).

Regarding Claims 30 and 35, Saib discloses a jump key (channel up) with the first depression duration range to tune a different channel (Para 33) but is silent about the second depression duration associated with a function for changing an operating mode of the multimedia presentation device.

In an analogous art, Griesau discloses programming specific keys the second depression duration (predetermined amount of time) for changing an operating mode of the multimedia presentation device (Col 4 lines 49-62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Saib's system to include programming specific keys like channel up or down

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buttons associated with a function for changing an operating mode of the multimedia presentation device, as taught by Griesau so additional function can be achieved with the same key.

8. Claims 31 and 36 rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) and Shaffer (US 7,181,027) as applied to claims 28 and 33 above, and further in view of Coleman et al (US 5,844,620).

Regarding Claims 31 and 36, Saib discloses more than one function can be implemented in a single button based on the depress duration. Saib further discloses a jump function to jump back to the previously viewed channels but not specifically about the latest channels.

In an analogous art, Coleman discloses a last channel button function allow viewers to view the latest ten viewed channels (Col 23 lines 1-7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of Saib and Shaffer to include viewing the last latest viewed channels, as taught by Coleman with a single key stroke to improve the overall reliability of the remote controller usage with less key strokes.

9. Claims 32 and 37 rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) and Shaffer(US 7,181,027) as applied to claims 28 and 33 above, and further in view of Look et al (US 6,757,906).

Regarding Claims 32 and 37, Saib and Shaffer are silent about displaying a progress bar related to the depression duration.

In an analogous art, Look discloses a progress bar related to a program duration (FIG.26).



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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Saib's system to include a progress bar related to the process duration, as taught by Look as an added convenient tool to guide the users.

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-4, 10-13, 19-22 and 25-40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Claims 29 and 34 appear to be allowable subject matters.
12. Claims 1-4, 10-13, 19-22, 25-28, 30-33 and 35-40 are rejected.

***Correspondence Information***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:30-19:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative

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or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fhp

/Joseph P. Hirl/

Supervisory Patent Examiner, Art Unit 2426

April 24, 2010